

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES,

Plaintiff,

V.

DWAYNE BAXTON,

Defendant.

.....

Criminal No. 03-550 (JAG)

ORDER

GREENAWAY, JR., U.S.C.J.*

This matter comes before this Court on the motion (Docket Entry No. 20) of defendant, Dwayne Baxton (“Baxton”), seeking copies of all transcripts relating to his sentence and conviction. The docketing system indicates that Baxton has not filed an appeal. Additionally, the docketing system indicates he has not filed a motion, pursuant to 28 U.S.C. § 2255.

Section 753(f) of title 28 of the United States Code authorizes transcripts to be furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. § 3006A), or in habeas corpus proceedings when the plaintiff is proceeding in forma pauperis, but only “if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.” 28 U.S.C. § 753(f).

The present case is closed, and no appeal is pending. Baxton cannot be proceeding in a

* Sitting by designation on the District Court.

criminal matter, pursuant to the Criminal Justice Act, since no criminal matter is pending.

Therefore, Baxton does not satisfy the first criterion for obtaining transcripts. Additionally, no habeas corpus petition is currently pending. As a result, this Court cannot make a determination as to whether or not the habeas corpus petition is frivolous, nor can it decide whether or not the transcript is needed to decide any issues presented. Therefore,

IT IS, this 24th day of March, 2010,

ORDERED that the Motion for Transcripts (Docket Entry No. 20) is DENIED; and it is further

ORDERED that a copy of this Order be served on all parties within seven (7) days of the date of entry of this Order.

S/Joseph A. Greenaway, Jr.
JOSEPH A. GREENAWAY, JR., U.S.C.J.
(Sitting by designation on the District Court)